

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

FRANKLIN J. MORRIS, as Personal  
Representative of the Wrongful Death  
Estate of MARCELLINO MORRIS, JR.  
(Deceased),

Plaintiff,

v.

1:15-CV-00055 JCH-LF

GIANT FOUR COUNERS, INC. d/b/a  
GIANT #7251,

Defendant.


**ORDER STAYING DISCOVERY**

THIS MATTER comes before the Court on defendant Giant Four Corners, Inc.’s Motion to Quash Subpoena and to Stay Discovery (Doc. 40) until the Court rules on its motion to dismiss plaintiff’s complaint, or, in the alternative, to stay further proceedings in this action pending resolution of plaintiff’s appeal in the Navajo Nation Supreme Court (Doc. 38). Plaintiff Franklin J. Morris opposes the motion. *See* Doc. 42.

Defendant Giant Four Corners, Inc. (“Giant”) asks that the Court stay discovery in this case because it has filed a motion that could be dispositive of all claims asserted by Morris. *See* Doc. 40. Alternatively, Giant has requested a stay of the entire case pending the resolution of plaintiff’s appeal in the Navajo Nation Supreme Court, and asks the Court to stay discovery pending the resolution of that motion. *See id.* Plaintiff opposes the motion to stay discovery based primarily on his assertion that Giant’s motion to dismiss or stay this case is without merit. *See* Doc. 42 at 3–4. He also argues that the discovery he seeks is reasonably calculated to lead to admissible evidence. *See id.* at 5–7.

Rule 26(c)(1) permits the Court to stay discovery to “protect a party or person from . . . undue burden or expense.” Fed. R. Civ. P. 26(c)(1). Given that Giant has filed a motion that, if successful, will dispose of this case, a stay of discovery is appropriate. A stay will save the parties from the expense of unnecessary depositions should the Court grant Giant’s motion to dismiss. If the Court denies Giant’s motion to dismiss, the stay will be lifted, and I will set new discovery deadlines so that the parties may complete any remaining discovery.

**IT IS THEREFORE ORDERED** that all discovery in this case is stayed until the Court rules on defendant Giant Four Corners, Inc.’s Motion to Dismiss for Failure to State a Claim or, in the alternative, to Stay the Case Pending Plaintiff’s Exhaustion of His Tribal Court Remedies (Doc. 38). The deadlines set in this Court’s Order modifying the scheduling order (Doc. 29) are vacated and will be reset at a later date, if necessary. All deposition subpoenas are quashed, and new subpoenas may be issued if and when the Court lifts the stay on discovery.

  
Laura Fashing  
United States Magistrate Judge